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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,009	03/29/2001	R. Alan Whitehurst	3010	8516

21999 7590 02/13/2003

KIRTON AND MCCONKIE  
1800 EAGLE GATE TOWER  
60 EAST SOUTH TEMPLE  
P O BOX 45120  
SALT LAKE CITY, UT 84145-0120

EXAMINER

SAADAT, CAMERON

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 02/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/821,009

Applicant(s)

WHITEHURST ET AL.

Examiner

Cameron Saadat

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claim 23 is objected to because its dependency upon itself seems to be a typographical error. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “performing the information assessment step either prior, during, or after the information presentation step” provides alternate choices and renders the claim indefinite.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1-22, 24-44, and 46-56 are rejected under 35 U.S.C. 102(e) as being anticipated by Siefert (USPN 6,386,883 B2).**

Regarding claims 1, 14, 20, 26, 36, 46, and 52, Siefert discloses a computer-based teaching and evaluation method and system comprising: presenting information to a student

Art Unit: 3713

using a plurality of instructional strategies (column 9, lines 5-10); assessing the students understanding of the information in each of said strategies (column 9, lines 11-14); based on the assessment, determining the success of each of the plurality of instructional strategies in instructing the student during the presentation; and in subsequent information presentations, increasing the use of those instructional strategies having greater success in presenting the information over those strategies having less success (column 9, lines 52-56).

Regarding claims 2, 27, 37, 47, Siefert discloses a method and system comprising: defining a plurality of concepts based on the information being presented (column 16, lines 47-50); and selecting at least one instructional strategy in which to present each concept to the student (column 9, lines 5-10).

Regarding claims 3, 28, 38, 48, and 53, Siefert discloses a method and system further comprising: before presenting the information, defining a plurality of concepts based on the information based on the concepts, generating a content outline of the information; associating a set of assets with each of the plurality of concepts (column 16, lines 47-57).

Regarding claim 4, Siefert discloses a method and system, further comprising providing a summary of each concept (column 16, lines 47-50).

Regarding claims 5, 29, and 39, Siefert discloses a method and system, further comprising: establishing pre-requisites needed by the student to enable the student to view the information (column 8, lines 7-18).

Regarding claims 6, 30, and 40, Siefert discloses a method and system, further comprising generating evaluation instruments utilized in the assessing step to measure competencies relating to a specific concept within the information (See Fig. 2).

Regarding claim 7, Siefert discloses a method and system, comprising performing the information assessment step prior, during, and after the information presentation step (column 8, lines 7-18; column 9, lines 30-35; Fig. 2).

Regarding claims 8, 31, 41, 49, and 54, Siefert discloses a method and system wherein the instructional strategies are selected from the group comprising problem solving, simulation, and analogy (See Table 4.2; column 16, lines 16-19).

Regarding claims 10, 33, 43, 51, and 56, Siefert discloses a method and system, further comprising tracking the frequency of use of each instructional strategy (column 16, lines 16-21).

Regarding claims 9, 14, 16, 20, 22, 32, 42, 50, 55, Siefert discloses a method and system further comprising assessing the students understanding of presented information using different instructional strategies (column 9, lines 11-14, 52-56); in order to determine the success of each instructional strategy. Although Siefert does not explicitly state that the instructional strategies are rated or ranked, inherently the instructional strategies must be given a rating or a rank in order to identify that one instructional strategy is favorable over another.

Regarding claim 11, Siefert discloses a method and system, further comprising selecting an instructional approach for use under a selected instructional strategy (column 16, lines 16-19).

Regarding claim 12, Siefert discloses a method and system, further comprising preparing at least one assignment for the student to perform as part of the information presentation step (column 15, lines 48-53).

Art Unit: 3713

Regarding claims 13 and 35, Siefert discloses a method and system, further comprising assigning a task to an author to develop content for the information to be presented (column 6, lines 26-39; column 15, lines 3-10).

Regarding claims 15 and 21, Siefert discloses a method and system, further comprising repeating each step of assessing different strategies for new information (See Fig. 3).

Regarding claims 18 and 24, Siefert discloses a method and system, further comprising building a profile of a learning style of the student based on the performance of the instructional strategies (column 7, lines 55-59).

Regarding claims 19 and 25, Siefert discloses a method and system, further comprising utilizing the learning style profile of the student to determine preferred instructional strategies for presenting information to the student in subsequent teaching sessions (column 9, lines 54-55).

Regarding claim 34 and 44, Siefert discloses a method and system, wherein a presentation engine provides at least one assignment to the student to be performed outside of the learning session (See Fig. 3).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3713

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. **Claims 23 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siefert (USPN 6,386,883 B2).**

Regarding claim 23, Siefert discloses a method and system wherein information is presented in using various instructional strategies. Siefert does not explicitly state that the instructional strategies are presented in random order, yet the reference also does not specify a predetermined order of presenting each instructional strategy. It is simply stated that different instructional strategies are attempted (column 9, lines 39-40). Hence, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to recognize that the functionality of the system provides randomly selected instructional strategies since no predetermined order of presentation is set forth.

Regarding claim 45, Siefert discloses a system, wherein the network is a public data network (column 4, lines 64-67), but does not specifically state the Internet. However, it is the examiner's position that the Internet is a notoriously old and well-known form of a public data network. Furthermore, a web-browser is an old and well-known interface provided to interact within the Internet. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the public network described in Siefert, by specifying the

Art Unit: 3713

Internet as the public data network in order to readily provide access to multiple users in remote locations.

*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- L'Allier et al. (USPN 6,039,575) – disclose a learning system wherein a learning profile is established for a student and wherein different instructional strategies are provided.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cameron Saadat whose telephone number is 703-305-5490. The examiner can normally be reached on M-F 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin Wallace can be reached on 703-308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

CS

February 6, 2003

  
VALENCIA MARTIN-WALLACE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700